

Application No. 10/023,256
Docket No. 2001U011.US
Reply to Office Action Dated July 7, 2004

Remarks

Claim Amendments

Claims 7 and 20 are cancelled without prejudice.

Claims 1 and 14 are amended such that "a" is now -1-.

Claims 1 and 14 are further amended to remove the phrases "a heteroatom that is part of a ring structure and is" and "a metallic", the later replaced by -an-, for simplicity in light of the prior amendments.

No new matter is believed to be added.

Section 102 Rejections

Claims 1-4, 6-7, 9-12, 14-17, 19-20, 22-25, variously, were rejected under 35 U.S.C. § 102(e) as anticipated by each of *Brookhart* (US 6,670,297); *Mackenzie* (US 6,660,677); *Matsui* (US 6,593,266); *Sita* (US 6,579,998); *Brookhart* (US 6,489,497); *Llatas* (US 6,586,358); *Moody* (US 6,579,823); *Moody* (US 6,559,091); *Tagge* (US 6,544,919); *Jacobsen* (US 6,521,561); *Theopold* (US 6,511,936); and *Eilerts* (US 6,479,422). The Applicant traverses these rejections.

The Applicant would like to first clarify that, in the Response and Amendments mailed on May 10, 2004, the Examiner's rejections were traversed by the remarks and amendments, and that those were intended to apply to each rejection by the Examiner. Thus, the Applicant did not agree with the rejections in light of the amendments and remarks that were made therein. In any case, the Applicant particularly traverses the rejections in the present Office Action.

- *Brookhart* (US 6,670,297)

Brookhart '297 does not disclose structures as claimed in Claims 1 and 14, wherein an atom "J" is bound directly to another atom "Y", both of which are non-carbon

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atoms. In all structures disclosed in '297, a nitrogen is bound/adjacent to at least one carbon atom. Thus, '297 does not anticipate Applicant's invention and it is requested that this rejection be withdrawn.

- *Mackenzie* (US 6,660,677)

Mackenzie does not disclose structures as claimed in Claims 1 and 14, wherein an atom "J" is bound directly to another atom "Y", both of which are non-carbon atoms. In all structures disclosed in *Mackenzie*, a nitrogen is bound/adjacent to at least one carbon atom. Thus, *Mackenzie* does not anticipate Applicant's invention and it is requested that this rejection be withdrawn.

- *Matsui* (US 6,593,266)

Matsui does not disclose structures as claimed in Claims 1 and 14, wherein "J" and "Y", being both defined as a nitrogen atom, are bound to one another. At col. 4, structure (d) of *Matsui*, there is a permutation wherein "Z" in that structure is an " =NR^{17} " group. However, this does not disclose the Applicant's invention of "J" and "T" being bound by a single bond, the "J" group being part of a ring system. Thus, *Matsui* does not anticipate Applicant's invention and it is requested that this rejection be withdrawn.

- *Sita* (US 6,579,998)

Sita does not disclose structures as claimed in Claims 1 and 14, wherein an atom "J" is bound directly to another atom "Y", both of which are non-carbon atoms. In all structures disclosed in *Sita*, a nitrogen is bound/adjacent to at least one carbon atom. Thus, *Sita* does not anticipate Applicant's invention and it is requested that this rejection be withdrawn.

- *Brookhart* (US 6,489,497)

Brookhart '497 does not disclose structures as claimed in Claims 1 and 14, wherein an atom "J" is bound directly to another atom "Y", both of which are non-carbon atoms. Further, *Brookhart* '497 does not disclose the "Group 3 to 7" metals as part of the

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structure. Thus, *Brookhart* '497 does not anticipate Applicant's invention and it is requested that this rejection be withdrawn.

- *Llatas* (US 6,586,358)

Llatas does not disclose structures as claimed in Claims 1 and 14, wherein an atom "J" is bound directly to another atom "Y", both of which are non-carbon atoms. In all structures disclosed in *Llatas*, a nitrogen is bound/adjacent to at least one carbon atom. Further, *Llatas* does not disclose the "Group 3 to 7" metals as part of the structure, only Group 10 metals. Thus, *Llatas* does not anticipate Applicant's invention and it is requested that this rejection be withdrawn.

- *Moody* (US 6,579,823)

Moody '823 does not disclose structures as claimed in Claims 1 and 14, wherein the presently claimed ligand structure is complexed/bound to a "Group 3 to 7" metal atom. In *Moody* '823, only Group 8 to 10 metal atoms structures are disclosed. Thus, *Moody* '823 does not anticipate Applicant's invention. Withdrawal of this rejection is requested.

- *Moody* (US 6,559,091)

Moody '091 does not disclose the structures as claimed in Claims 1 and 14, as the '091 patent discloses only symmetrical structures. Applicant's claims 1 and 14 are amended such that "a" is 1. In Applicant's claimed invention, it is clear that "T" and the feature represented by "Y" and "J" being bound to one another are not equivalent, thus not symmetrical, thus necessitating the distinguishing definitions of those features throughout the Applicant's specification and claims. This is supported, for example, by the working examples and, for example, at paragraphs [0021] and [0023]. Withdrawal of this rejection is requested.

- *Tagge* (US 6,544,919)

Tagge does not disclose the structures as claimed in Claims 1 and 14, as *Tagge* does not disclose the nitrogen-nitrogen bonded group within the ligand structure as is

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Claimed by Applicant's "J" and "Y" groups bound thereto. The Applicant thus requests that this rejection be withdrawn.

• *Jacobsen* (US 6,521,561)

Jacobsen does not disclose the structures as claimed in Claims 1 and 14, as there is no disclosure of the nitrogen-nitrogen bonded group within the ligand structure as is Claimed by Applicant's "J" and "Y" groups bound thereto. In *Jacobsen* at col. 2, the structure corresponding to "100", the "Z" and the "R¹" groups described therein are more particularly described at col. 18, lines 51-67 and co. 19, lines 1 through 36. The Applicant contends that this does not particularly disclose, nor inherently disclose, Applicant's claimed feature of "J is nitrogen; wherein the ring to which J is part of is a five or six member ring".

Further, there is no disclosure in *Jacobsen* of "M" being a "Group 3 to 7" metal atom, as *Jacobsen* discloses "main group" metals in this position, those metals defined at col. 18, lines 32-40; and further, "main group" elements in general are known in the art to comprise only the elements in Groups 1, 2, 3, and 13-17 (new naming convention), and some cases Group 12 atoms (see *F. Albert Cotton* in *ADVANCED INORGANIC CHEMISTRY* (John Wiley & Sons 1980). The textbook defined "main group" elements, which is common knowledge in the art, is consistent with the definition in *Jacobsen*. The disclosure referred to at col. 26 of "Ti" being a metal is described in one particular embodiment, wherein the structure of that embodiment, taken as a whole, does not disclose Applicant's claimed invention. The Applicant thus requests that this rejection be withdrawn.

• *Theopold* (US 6,511,936)

Theopold does not disclose the structures as claimed in Claims 1 and 14, as *Theopold* does not disclose the nitrogen-nitrogen bonded group within the ligand structure as is Claimed by Applicant's "J" and "Y" groups bound thereto. The Applicant thus requests that this rejection be withdrawn.

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• *Eilerts* (US 6,479,422)

Eilerts does not disclose the structures as claimed in Claims 1 and 14, as *Eilerts* does not disclose the nitrogen-nitrogen bonded group within the ligand structure as is Claimed by Applicant's "J" and "Y" groups bound thereto. *Eilerts* further lacks disclosure of Applicant's "Group 3 to 7" metal atom. The Applicant thus requests that this rejection be withdrawn.

Double Patenting Rejections

The Examiner rejected Claims 14-17, 19-20 and 22-25 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of US 6,472,342. The Applicant traverses this rejection, as those claims are directed to a catalyst composition that includes a "bulky ligand metallocene" and a "carboxylate salt". Applicant cannot find the currently claimed features in any form in the claims of the '342 patent, nor do those claims render the Applicant's claimed invention obvious. The Applicant thus requests that this rejection be withdrawn.

The Examiner rejected Claims 1-4, 6-7, 9-12 and 14 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of US 6,482,903. The Applicant traverses this rejection, as those claims are directed to a catalyst composition that includes a "flow improver". Applicant cannot find the currently claimed features in any form in the claims of the '903 patent, nor do those claims render the Applicant's claimed invention obvious. The Applicant thus requests that this rejection be withdrawn.

The Examiner rejected Claims 1-4, 6-7, 9-12 14-17, 19-20, 22-25 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of US 6,632,770. The Applicant traverses this rejection, as those claims are directed to a "activator" composition that includes a "siloxane moiety". Applicant cannot find the currently claimed features in any form in the claims of the '770 patent, nor do those claims render the Applicant's claimed invention obvious. The Applicant thus requests that this rejection be withdrawn.

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The Examiner rejected Claims 14-17, 19-20 and 22-25 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11, 17-18 and 21 and 23-27 of US 6,472,342. The Applicant traverses this rejection, as those claims are directed to a composition that includes a "bulky ligand metallocene" and a "carboxylate metal salt". Applicant cannot find the currently claimed features in any form in the claims of the '342 patent, nor do those claims render the Applicant's claimed invention obvious. The Applicant thus requests that this rejection be withdrawn.

The Examiner rejected Claims 1-4, 6-7, 9-12 14-17, 19-20, 22-25 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of US 6,660,679. The Applicant traverses this rejection, as those claims are directed to a composition that includes an "activator complex" that is quite distinct from the compositions currently being claimed. Applicant cannot find the currently claimed features in any form in the claims of the '679 patent, nor do those claims render the Applicant's claimed invention obvious. The Applicant thus requests that this rejection be withdrawn.

The Examiner rejected Claims 14-17, 19-20, 22-25 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of US 6,660,815. The Applicant traverses this rejection, as those claims are directed to a composition that includes an a "bulky ligand metallocene" and a "carboxylate metal salt" that is quite distinct from the compositions currently being claimed. Applicant cannot find the currently claimed features in any form in the claims of the '815 patent, nor do those claims render the Applicant's claimed invention obvious. The Applicant thus requests that this rejection be withdrawn.

The Examiner rejected Claims 1-4, 6-7, 9-12, 14-17, 19-20, 22-25, 27 and 28 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of US 6,320,005. The Applicant traverses this rejection, as those claims do not include or suggest Applicant's "J" bound to "Y" claim feature.

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The claims 1-20 of the '005 patent are limited to a specific class of compounds that do not include the structures currently being claimed. The Applicant thus requests that this rejection be withdrawn.

Finally, the Examiner rejected Claims 1-4, 6-7, 9-12, 14-17, 19-20, 22-25, 27 and 28 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of US 6,610,627. The Applicant traverses this rejection, as those claims do not include or suggest Applicant's "J" bound to "Y" claim feature. The claims 1-20 of the '627 patent are limited to a specific class of compounds that do not include the structures currently being claimed. The Applicant thus requests that this rejection be withdrawn.

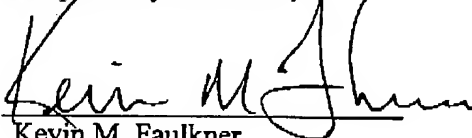
Thus, it is believed that no Terminal Disclaimer is necessary, as the Applicant, by allowance of the present claims, would not obtain "improper timewise extension of the 'right to exclude'.

It is submitted that the case is in condition for allowance. The Applicant invites the Examiner to telephone the undersigned attorney if there are any other issues outstanding which have not been presented to the Examiner's satisfaction.

Date

 8/13/04

Respectfully submitted,



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